



**REGULAR MEETING**  
**PUBLIC EMPLOYEES' RETIREMENT BOARD**

**March 13, 2008**

The regular meeting was called to order by President Jay Klawon at 8:30 a.m. Thursday, March 13, 2008. Roll call was taken with all members of the Board being present. Board members and staff present were:

Jay Klawon, President  
John Paull, Vice President  
Robert Griffith, Member  
Troy McGee, Member  
John Nielsen, Member  
Ray Peck, Member  
Terry Smith, Member  
Roxanne Minnehan, Executive Director  
Melanie Symons, Legal Council  
Scott Miller, Legal Council  
Ursula Hatfield, Executive Assistant

**OPEN MEETING**

Linda Ulrich, Great West Retirement Services, Rick Ryan, Scott Moore, members of the Montana State Firemen's Association; Ed Cleary, MSCOFF; Don Kinman, AFSCME; Tom Schneider, MPEA; Russell Wrigg, AMPRE; Carole Carey, former PERB President, and Kim Flatow, Member Services Bureau Chief; Barb Quinn, Fiscal Services Bureau Chief; Kathy Samson joined the meeting

**MINUTES OF OPEN MEETING**

The minutes of the open meeting of February 14, 2008 were presented.

Moved: Mr. John Paull moved to approve the minutes of the February 14, 2008 PERB Regular Open Meeting.

Seconded: Mr. Ray Peck

Vote: 7/0

**Public Comment:**

Mr. Rick Ryan from MSFA and Mr. Russell Wrigg from AMPRE gave their thanks to terming Board members, Troy McGee and Robert Griffith for their years of service.

**EXECUTIVE DIRECTOR'S REPORT** – Roxanne Minnehan, Executive Director

**SEC Settlement Payments** - Kathy Samson

The Board determined how to distribute the settlement to the affected 457 Plan participants at their November 2007 meeting. The Board decisions included distributing only amounts in excess of \$10 for individuals who were no longer Plan participants. Staff error resulted in the notice being sent to all recipients. Ms. Samson is presenting this to the Board for additional direction.

Moved: Mr. Troy McGee moved to reverse November 2007 motion and distribute all amounts to former 457 Plan participants who respond to the notice and request a distribution.

Second: Mr. Robert Griffith

No public comment.

Vote: 7/0

Mr. John Nielsen disclosed for the record that he is a member of the 457 Plan and may or may not be affected by the Board's decision.

**EIAC Appointment** – Kathy Samson

The Employee Investment Advisory Council (EIAC) includes a representative from the Board of Investments (BOI). BOI's Representative, Bob Bugni retired effective January 1, 2008. Mr. Rande Muffick has been recommended by Mr. Clifford Sheets BOI's CIO. Mr. Muffick will fill the remaining term vacated by Mr. Bugni.

Mr. Muffick currently oversees the BOI's external equity managers. He has worked for the State and BOI since 1992. His experience and knowledge will provide a good and valuable perspective on the funds being used or considered in the DCRP and 457 deferred compensation plan.

Motion: Mr. Robert Griffith moved to appoint Mr. Rande Muffick as the BOI's representative to complete the term vacated by Mr. Bob Bugni.

Second: Mr. John Paull

No public comment.

Vote: 7/0

**Medical Consultant Contract – Scott Miller**

Dr. McEvoy is retiring full-time and has requested termination of his contract as our medical consultant. Dr. Robert N. Mitgang has been recommended. The Disability Examiner and the Member Service Bureau Chief have met with Dr. Mitgang. MPERA has contracted for medical and psychiatric consultants several years. Contracts have been for two years, this is the middle of the fiscal year the contract will be for February 1, 2008 through June 30, 2011. The contract may be terminated by either party with a 60 day notice.

Motion: Mr. John Nielsen moved uphold staff recommendation and approve the agreement with Dr. Mitgang.

Second: Mr. Terry Smith

No public comment.

Vote: 7/0

**Out of State Travel Authorizations**

The Board approves all out of state travel. These travel requests are included in the FY 2008 Budget.

**PRISM Annual Conference – Miami, April 25 - 30 - June Dosier**

This is the first time MPERA has budgeted to attend the Public Retirement Information Systems Management (PRISM) Conference. This conference has been recommended by other State Retirement Systems. June Dosier, IT Manager will be attending the conference in Miami, April 25 - 30.

Motion: Mr. Troy McGee moved to approve the travel authorization for June Dosier to attend the PRISM Conference in Miami, FL from April 25 – 30, 2008.

Second: Mr. John Paull

No public comment.

Vote: 7/0

**Pension and Investment Custom Target-Date Strategies Summit – San Francisco, March 31-April 2**

Ms. Kathy Samson, DC Education Services Bureau Chief will be attending this one day conference in San Francisco. Travel time will be March 31 – April 2. The registration fee has been waived; therefore, the request is for travel expenses, only.

Motion: Mr. Terry Smith moved that Ms. Kathy Samson be allowed to attend the Pension and Investments Custom Target-Date Strategies Summit in San Francisco in April 2008.

Second: Mr. Robert Griffith  
No public comment.

Vote: 7/0

### **Board Education – Process for Raising Issues - Melanie Symons**

Ms. Melanie Symons presented this month's educational session entitled "Getting Myself Heard and My Issues Considered." Ms. Symons talked about how the agenda works and how you can bring issues in front of the Board to have them considered. The Board agenda is the responsibility of the Executive Director and the Board President, to approve. Staff members and Board members may suggest items to be addressed during the meeting be added to the agenda. All items suggested are given a 21 day time frame to allow MPERA staff to research and report to the Board. The agenda can have "regularly established monthly issues." In addition to the agenda, Ms. Symons talked about the "exparte contact" this is where two parties are in disagreement and the Board, for example, only hears one side without the other party being present, this is not permitted under the law. Ms. Symons revisited the education from last month about revisiting an item on a past agenda. The process is that a person that voted for the winning party can make a motion to bring the issue back on the table; this can then be added to the agenda of the next meeting. Board retreats can also be used to bring up issues, which are open meetings.

Ms. Roxanne Minnehan attended the TRS Board meeting in February. She observed the Board President calling upon all members for their opinions to issues before voting. This insures all members are voicing their point of view on the subject.

### **Administrative Rules Rewrite – Melanie Symons, Kim Flatow**

The administrative rules are part of the package submitted to the IRS for plan qualification status. Ms. Kim Flatow and Ms. Melanie Symons have reviewed each DB rule and made proposed changes. These will be restructured so that the rules have more fluidity. Ms. Symons and Ms. Kathy Samson have identified, with assistance by Mr. Terry Smith, DC rules that need to be amended or changed. The changes are then being reviewed by the entire management team. This is the second part brought before the Board, with the first being presented last month. The remainder will be presented at the April Board meeting. Ms. Symons explained that AUTH means "authority" this statute gives MPERA the authority to adopt rules. IMP means "implementing" these are the statutes that are being implemented by the rules.

### **Verbal Update – NAPPA Conference Report – Scott Miller**

Mr. Scott Miller attended the winter NAPPA conference in February. The conference had four sections at a half day class for each. The four classes were fiduciary and plan governments, benefits, investments and tax.

Fiduciary and plan governments based on litigations brought against pension systems. This class talked about how to monitor investments.

Benefits talked about how they were structured. One topic was IT security, what you need to do to protect your IT system. Mr. Miller spoke about a gentleman from Kentucky that gets numerous hacking attempts, and the importance to keep sensitive information safe. Media relations were also talked about in this section. Some highlights to note are; always be ready for the media, always get more time, and never say, "No comment."

Investment was the third class of the conference. Hedge funds were talked about mostly.

Tax was the last section. Mr. Miller brought up IRS issues. Roth Rollover guidance was provided. Mr. Miller talked about the Technical Corrections Bill for the PPA. One of the proposed changes is to remove the direct payment requirement for public safety health insurance payments. The PPA allows a retired public safety individual to take the \$3000.00 deduction for health insurance payments provided the payment is made directly from the retirement plan to the insurance provider. The problem is retirees are finding less costly insurance through providers other than what the employer offers.

#### **MPERA Staffing – Roxanne Minnehan**

#### **Internal Auditor – Renae Deadmond, started Monday March 3, 2008.**

Ms. Deadmond has experience auditing billing systems and customer claims.

#### **DC Plans Pay/Benefits Tech - Barbara "Barb" Tompkins, started Monday March 10, 2008.**

Barb comes to MPERA from Department of Fish, Wildlife and Parks as a payroll clerk. Prior to that she worked as a manager for a nationwide hotel chain.

**DC Accountant** - This position was reposted, closing Monday March, 10, 2008.

**Education Specialist** - job profile is being finalized and will be posted.

#### **Administrative Support, Member Services – New position**

MPERA is finalizing the job profile for this position.

#### **Board Members –**

Ms. Minnehan has not received any information on appointees from Patti Keebler, Board and Commission Adviser.

#### **Verbal Update – SAVA Committee, February 22, 2008 – Melanie Symons**

Kim Flatow and Ms. Symons attended the February SAVA meeting. Election and veteran issues were the topics of this meeting; there was little discussion about retirement. Susan Bomstad from Missoula 911 asked Sen. Squires to consider dispatchers be put on a 20 year retirement system. Sheriffs and Peace Officers are backing this. This will be discussed further at the April SAVA meeting. The April meeting will be the time all other interested entities other than MPERA and TRS to present their ideas for the 2009 session. Dave Bohyer explained to the SAVA members that he has put together some charts for retirement issues and will bring these to the April meeting.

Rep. Ingraham brought up that she would like to start a 10 year vesting schedule to save money and make our systems better funded. Sen. Squires said she would oppose this. Mr. Peck stated that Mr. Bohyer's handouts were very informative.

#### **Verbal Update – TRS Legislation – Roxanne Minnehan**

Ms. Minnehan attended TRS Board meeting February 15, 2008. TRS had a focus group with their stakeholders and actuary. They currently have a 25 year system, which is expensive and makes it difficult to retain teachers. Mr. Dave Senn wants to have a new plan designed. Some ideas are to have a new tier for new hires. This will be for age of 62 retirements and a rule of 90, but further investigation into this was turned down by the Board members. A professional retirement option, which is a 2% multiplier after 30 years and age 55. Return to work was discussed which is a working retiree. This would be an unlimited employment but have contributions paid into the system by the employee and employer for working retirees after age 65. The actuary is questioning how this provision would affect the impact the retirement behavior and long term implications to the system. If they look into this they propose to have a sunset in the provision initially to access the long term implications. A request was made to increase the ORP contributions by 1% to pay off the unfunded liability. Retirees that become reinstated retire with the current salary TRS is considering calculating 2 benefits from each work period and adding them together to reduce the cost. K-12 all members go into TRS not just teaching staff was also suggested. This would affect PERS for they make up 18% of our members. A request from OPI to help draft and support a bill to move some staff into PERS. OPI is stating that these particular positions are not teaching position any more.

#### **Verbal Update - Board of Investments (BOI) – John Paull**

An Asset Liability study was done 18-24 months ago by RV Kuhns, the BOI's investment consultant. They demonstrated the merits of diversification across existing asset classes and new asset classes. The Public Equity Asset has been significantly diversified over the past two years and that the process is going to continue possibly 3-4 years before they are fully diversified. The remaining Public Asset Class that has not been addressed is the Fixed Income Categories. The Asset Liability study, used a fixed income composite as a proxy for the Board's asset class. This composite will further diversify within the fixed income asset class to include the Below Investment Grade or the High Yield Securities and Non US Securities. The recommended ranges for the Retirement Funds Bond Pool are US High Yield Securities, 0-15%; Non US Securities, 0-10%; Plus Sectors, 0-20%; the Core which is the US Investment Grade Securities are 80-100%.

The Request for Proposals (RFP) for selecting new managers will close on March 11, 2008. These will be reviewed by BOI and RV Kuhns this spring with funding this summer.

Bob Bugni, one of BOI's two fixed income managers, retired on December 31, 2007. The human resource committee for BOI is currently conducting a search to replace Mr. Bugni and are advertising in the Chartered Financial website and the Wall Street Journal. The duties are being

shared by current staff members. Under Mr. Bugni=s management, the RFBP returns were: last quarter 2.5%; six months 5.17%; one year 6.6%; three years 5.18%; and five years 5.95%. Mr. Bugni=s percentile ranking amongst his peers was 10 for 2005-2007 and 9 for 2003-2007. The percentile ranking range is between 1 and 100 with 1 being the best.

### **Litigation Update** – Melanie Symons, Scott Miller

Ms. Symons briefed the Board on the retired highway patrolman, whom wanted to increase his GABA. During the scheduling conference, neither party wanted to have oral argument so were are currently waiting on the judge to issue a decision.

MANG vs the State of Montana Supreme Court decision. The legislation is constitutional therefore MANG (Montana Air National Guard) firefighters, under this legislation, existing firefighters (prior to 2001) stay in PERS. New firefighters transfer to FURS. This has been approved by the Montana Supreme Court in a decision written by Justice Morris.

Mr. Miller has been working on the MPPA lawsuit. Mr. Miller filed a motion to dismiss. The MPPA filed a motion for summary judgment. The briefing for these has concluded. The brief for motion for summary judgment concluded in February. Since filing a response brief, Mr. Miller has found another statute to back PERB’s position. Mr. Miller has filed a motion for leave to file a supplemental brief so this will be submitted to the judge, so this is on the record. Oral argument has been scheduled Friday March 28, 2008 at 2 PM in front of Judge Sherlock.

### **Informational Summary Reports**

A letter is included as well as the list of stakeholders to which the letter was mailed. MPERA asks that the Board review the list to ensure the letter was mailed to each organization with retirement for the legislation 2009 session.

### **Future Board Meetings**

April 10, 2008  
May 8, 2008  
June 12, 2008

### **Future SAVA Meeting**

April 28-29, 2008

Open Meeting adjourned approximately 9:45 AM

**The following portion of the meeting relates to matters of individual privacy. The Board President determined that the demands of individual privacy clearly exceed the merits of public disclosure. As such, this portion of the meeting will be closed.**



**CLOSED MEETING**  
**PUBLIC EMPLOYEES' RETIREMENT BOARD**

**March 13, 2008**

The closed meeting was called to order by President Jay Klawon, Thursday, March 13, 2008. Roll call was taken with all Board members being present. Board members and staff present were:

Jay Klawon, President  
John Paull, Vice President  
Robert Griffith, Member  
Troy McGee, Member  
John Nielsen, Member  
Ray Peck, Member  
Terry Smith, Member  
Roxanne Minnehan, Executive Director  
Scott Miller, Legal Counsel  
Kim Flatow, Member Service Bureau Chief  
Ursula Hatfield, Executive Assistant

**MINUTES OF CLOSED MEETING**

The minutes of the regular closed meeting of February 14, 2008 were presented.

Motion: Mr. Terry Smith moved to approve the minutes of the February 14, 2008 PERB Regular Closed Meeting.

Second: Mr. John Paull

Vote: 7/0



## **Contested Cases**

### **Informal Consideration – PERS, Retirement Appeal, FO Kim Flatow**

Ms. Flatow presented to the Board the appeal of FO's request to retire effective September 1, 2007. FO contacted MPERA on September 7, 2007 requesting retirement estimates. Notes in the file indicate that she had terminated employment on August 31, 2007. The request was not timely processed and formal retirement estimates were not mailed until January 2, 2008. FO submitted her retirement application on January 30, 2008. FO also submitted a letter from her employer, simultaneously accepting her resignation and guaranteeing her employment as of October 1, 2007. FO has been working for her former employer from October 2007 to date. In accordance with statute to becoming a retiree, the member must terminate employment for a minimum of 30 days and receive her first retirement check before going back to work. FO did have the 30 day break in employment, but did not receive her first retirement check.

Mr. Miller stated that according to IRS rules and regulation FO is not a retiree due to the August 2007 letter. FO had an agreement to return to work. According to IRS rules this is not a termination of employment. The Board confirmed this is a federal law that PERB is not able to rule against.

Motion: Mr. Robert Griffith moved to uphold the staff's decision that FO has not terminated her employment and her application cannot be accepted until she does terminate her employment. A mandatory bill must be sent for all unreported wages from October 1, 2007 to date.

Second: Mr. Troy McGee

Vote: 7/0

### **Informal Reconsideration – 457 Hardship Appeal, MG - Kathy Samson**

MG is appealing the Board's decision to uphold the Emergency Withdrawal Committee's decision to deny his hardship request. MG is requesting for an in-service financial hardship withdrawal from his 457 deferred compensation plan account. MG's request does not meet the governing IRS code criteria for an in-service distribution. MG's request withdrawal is the result of illness (death) of his father. MG's father is not 1) a plan participant; 2) a plan beneficiary; 3) a participant's or beneficiary's spouse; or 4) a participant's or beneficiary's dependant. The necessary IRC criterion has not been met and a withdrawal is not permissible under governing regulations.

Motion: Mr. Troy McGee moved to uphold staff recommendation to deny MG's withdrawal request.

Second: Mr. Robert Griffith

Vote: 7/0

## Retirement Report

- Disability Claims/Reviews: Katie Linjatie

- TB 51 years old; has 14 years, seven months with PERS. She is currently employed as a custodian. TB was diagnosed with degenerative disc disease, bi-lateral (both sides) carpal tunnel syndrome and bilateral epicondylitis. Prognosis was not noted. TB is at her maximum medical improvement with an 11% whole person impairment rating that equates to 50% loss of range of motion of the neck. TB is permanently disabled from her current job, although she is capable of performing seated light to sedentary work, per Dr. Mitgang's review. Dr. Mitgang is recommending Ms. Beckman be approved for disability without annual review. Ms. Linjatie, MPERA disability examiner agrees.

Motion: Mr. John Nielsen moved to approve disability without annual review for TB.

Second: Mr. John Paull

Vote: 7/0

- JF is 40 years old; has 12 years and 11 months with PERS. JF is currently employed as an administrative support supervisor. JF has been diagnosed with anxiety, gastroesophageal reflux (GERD), and insomnia. October 25, 2007, JF's primary physician noted that JF is able to return to work. Dr. Mitgang and Ms. Linjatie are recommending denial of disability benefits.

Motion: Mr. John Paull moved to uphold staff recommendation and deny request for disability for JF.

Second: Mr. Robert Griffith

Vote: 7/0

- VK is 54 years old; has 19 years and three months with HPORS. VK is currently employed as a Highway Patrol Trooper. VK was diagnosed with breast cancer with liver metastases. Prognosis is guarded, non curable. Dr. Mitgang and Ms. Linjatie are recommending disability without annual review for the work is too physical for VK to continue.

Motion: Mr. Robert Griffith moved to approve disability without annual review for VK.

Second: Mr. Ray Peck

Vote: 7/0

- WL is 50 years old; has 27 years and four months with PERS. He is on modified duty as a correctional officer. WL has been diagnosed with spondylosis, back sprain, morbid obesity and diabetes. Prognosis is poor. Dr. Mitgang is stating that WL is disabled from doing medium and heavy work. Dr. Mitgang and Ms. Linjatie is recommending approval of disability benefits without annual review.

Motion: Mr. John Nielsen moved to approve for disability without annual review for WL.

Second: Mr. Troy McGee

Vote: 7/0

- DM is 52 years old; has seven years and three months with PERS. DM is currently employed as a heavy equipment operator. DM has been diagnosed with post L5-S1 fusion with a 13% whole person impairment rating; degenerative disc disease of the cervical spine. Prognosis is reported as unknown. Dr. Mitgang and Ms. Linjatie recommend DM be approved for disability for his job is based on operating heavy equipment and has a 10 lbs lifting restriction.

Motion: Mr. Troy McGee moved to approve request for disability without annual review for DM.

Second: Mr. John Paull

Vote: 7/0

- CR is 58 years old; has 18 years and one month with PERS. CR is currently off duty as a custodian. CR has been diagnosed with post surgical fusion of L4-5 and plantar fasciitis. Prognosis is fair. Dr. Mitgang considers her permanently disabled. CR is no longer capable to lift the 50 – 80 lbs required of her custodian duties. Ms. Linjatie agrees and recommends disability without annual review.

Motion: Mr. Troy McGee moved to approve request for disability without annual review for CR.

Second: Mr. John Paull

Vote: 7/0

- Finalized Service Retirements Disability Benefit Payments Kim Flatow

Motion: Mr. John Paull moved to approve the Finalized Service Retirement/Disability Benefit Payments with addendum.

Second: Mr. Robert Griffith

Vote: 7/0

**Contested Case/Litigation Updates** – Melanie Symons/Scott Miller

Mr. Miller updated the Board on a particular Montana School District. Mr. Miller is working with the district to ensure all covered employees are reported and reported correctly. This information has been submitted and being reviewed by staff and TRS.

Mr. Miller stated that oral argument on the motion to dismiss is scheduled March 28, 2008 in the MPPA case.

**Reconvene Open Meeting**

**Action on Closed Meeting Issues**

Motion: Mr. Robert Griffith moved to uphold the staff's decision that FO has not terminated employment and her application cannot be accepted until she does terminate her employment. A mandatory bill must be sent for all unreported wages from October 1, 2007 to date.

Second: Mr. Troy McGee

Vote: 7/0

Motion: Mr. Troy McGee moved to uphold staff recommendation to deny MG's hardship withdrawal request from the 457 plan.

Second: Troy McGee

Vote: 7/0

Mr. Terry Smith asked if it would be possible for MPERA staff to send an automatic acknowledgement (including important retirement information) letter to members when they request retirement information. The information packet would also be mailed with the retirement estimates. Ms. Kim Flatow will look into this.

**ADJOURNMENT**

There being no further business before the Board, Mr. Terry Smith moved to adjourn the meeting, Mr. John Nielsen second this motion. All voted aye, next regular meeting will be April 10, 2008. Meeting closed at approximately 11:45.